

11/04/14

CONTRACT

Kind of Work PCC Concrete and HMA crushing in Woodbury County Tons 22,000 Tons
 Project No. PCC Concrete and HMA Crushing 2014 County Woodbury

THIS AGREEMENT made and entered by and between Woodbury County, Iowa, by its Board of Supervisors
 consisting of the following members: Larry Clausen, George W. Boykin, Mark Monson,

Jaclyn Smith, and David Tripp, Contracting Authority, and
C.A.P. Recycling of Sioux City, Iowa, Contractor.

WITNESSETH: That the Contractor, for and in consideration of _____
One Hundred Eleven Thousand Five Hundred and 00/100 (\$111,500.00)

payable as set forth in the specifications constituting a part of this contract, hereby agrees to construct in accordance with the plans and specifications
 therefore, and in the locations designated in the notice to bidders, the various items of work as follows:

Item No.	Item	Quantity	Unit Price	Amount
PCC Patching at various locations in Woodbury County		Group 1		
1.	Crushing 15,000 Ton of mixture of PCC Concrete and Asphalt	15,000 Ton	\$ 5.00	\$75,000.00
2.	Crushing 7,000 Ton of mixture of PCC Concrete and Asphalt	7,000 Ton	\$ 5.00	\$35,000.00
3.	Mobilization	1 L.S.	\$ 1800.00	\$1,800.00

TOTAL BID**\$111,500.00**

Said specifications and plans are hereby made part of and the basis of this agreement, and a true copy of said plans and specifications are now on file in the office of
 the County Engineer under date of _____, 2014

That in consideration of the foregoing, the Contracting Authority hereby agrees to pay the Contractor, promptly and according to the requirements of the
 specifications the amounts set forth, subject to the conditions as set forth in the specifications.

That it is mutually understood and agreed by the parties hereto that the notice to bidders, the proposal, the specifications for Project No. PCC Concrete and HMA
 Crushing 2014 in Woodbury County, Iowa, the within contract, the contractor's bond, and the general and detailed plans are and constitute the basis of contract
 between the parties hereto.

That it is further understood and agreed by the parties of this contract that the above work shall be commenced and completed on or before:

Approximate Starting Date	Specified Starting Date	Late Start Date	Number of Working Days
		November 10, 2014	25

That time is the essence of this contract and that said contract contains all of the terms and conditions agreed upon by the parties hereto.

It is further understood that the Contractor consents to the jurisdiction of the courts of Iowa to hear, determine, and render judgment as to any controversy arising
 hereunder.

IN WITNESS WHEREOF the parties hereto have set their hands for the purposes herein expressed to this and three other instruments of like tenor, as the

_____ day of _____, 20____

Contractor: C.A.P. Recycling

By _____

Date 10/20/14

Contracting Authority: Woodbury County, Iowa

By Larry Clausen ChairmanDate 11/4/2014



Document A312TM - 2010

Payment Bond

CONTRACTOR:

(Name, legal status and address)

CAP Recycling, LLC
11329 State Highway 141
Mapleton, IA 51034

SURETY:

(Name, legal status and principal place of business)

Evergreen National Indemnity Company
6140 Parkland Blvd., #300
Mayfield Heights, OH 44124

OWNER:

(Name, legal status and address)

Woodbury County, Iowa
729 E. Frontage Road
Merville, IA 51039

CONSTRUCTION CONTRACT

Date:

Amount: One Hundred Eleven Thousand Five Hundred Dollars 00/100 (\$111,500.00)

Description: PCC Concrete and HMA Crushing in Woodbury County- 22,000 Tons

(Name and location) Woodbury County, IA PCC Concrete and HMA Crushing 2014

BOND

Date: October 30, 2014

(Not earlier than Construction Contract Date)

Amount: One Hundred Eleven Thousand Five Hundred Dollars 00/100 (\$111,500.00)

Modifications to this Bond:

☒ None

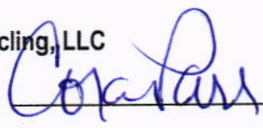
☐ See Section 18

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

CAP Recycling, LLC

Signature: 

Name
and title:

(Any additional signatures appear on the last page of this Payment Bond.)

SURETY

Company:

(Corporate Seal)

Evergreen National Indemnity Company

Signature: 

Name
and title:

Craig Sherman Attorney-in-Fact

(FOR INFORMATION ONLY - Name, address and telephone)

AGENT or BROKER:

Bond Brokers, Inc.

6160 N. Cicero Ave., Suite 610
Chicago, IL 60646

773-736-2320 773-736-0835 FAX

OWNER'S REPRESENTATIVE:

(ARCHITECT, Engineer or other party:)

This document has important legal consequences. Consultation with and attorney is encouraged with respect to its completion or modification.

Any Singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

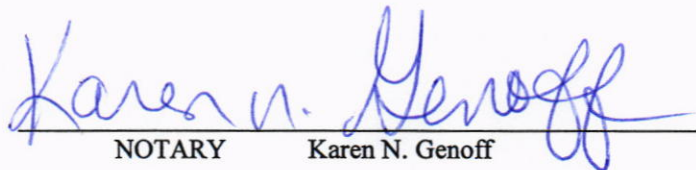
STATE OF ILLINOIS (SS
COUNTY OF COOK (

I, Karen N. Genoff A Notary of Public of Cook County, State of Illinois do Hereby Certify that Craig Sherman Attorney in Fact of Evergreen National Indemnity Company Who is Personally Known to me to be the Same Person Whose Name is Subscribed to the Foregoing Instrument, Appeared Before Me This Day in person and Acknowledged That he Signed, Sealed, and Delivered Said Instrument, For and on Behalf of Evergreen National Indemnity Company of Mayfield Heights, OH for the Uses and Purposes Therein Set Forth.

Given Under My Hand and Notarial Seal at My Office in Chicago, Illinois in Said County This

30th Day of October , 2014 .

My Commission Expires


NOTARY Karen N. Genoff



NOTARY PUBLIC

STATE OF ILLINOIS

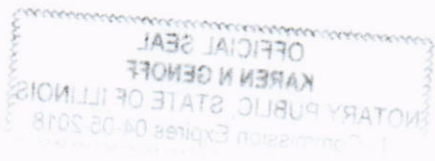
I, the undersigned, a Notary Public in and for the State of Illinois, do hereby certify that the foregoing is a true and correct copy of the original as the same appears to me.

Witness my hand and seal at the City of Chicago, Illinois, this _____ day of _____, 2018.

Notary Public

My Comm. Expires _____

[Handwritten signature]



EVERGREEN NATIONAL INDEMNITY COMPANY

MAYFIELD HEIGHTS, OH
POWER OF ATTORNEY

Bond No.
600704

KNOW ALL MEN BY THESE PRESENTS: That the Evergreen National Indemnity Company, a corporation in the State of Ohio does hereby nominate, constitute and appoint:

Ted Sherman, Craig Sherman

its true and lawful Attorney(s)-In-Fact to make, execute, attest, seal and deliver for and on its behalf, as Surety, and as its act and deed, where required, any and all bonds, undertakings, recognizances and written obligations in the nature thereof, PROVIDED, however, that the obligation of the Company under this Power of Attorney shall not exceed One million five hundred thousand and no/100s (\$1,500,000.00).

This Power of Attorney is granted and is signed by facsimile pursuant to the following Resolution adopted by its Board of Directors on the 23rd day of July, 2004:

"RESOLVED, That any two officers of the Company have the authority to make, execute and deliver a Power of Attorney constituting as Attorney(s)-in-fact such persons, firms, or corporations as may be selected from time to time.

FURTHER RESOLVED, that the signatures of such officers and the Seal of the Company may be affixed to any such Power of Attorney or any certificate relating thereto by facsimile; and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company; and any such powers so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

IN WITNESS WHEREOF, the Evergreen National Indemnity Company has caused its corporate seal to be affixed hereunto, and these presents to be signed by its duly authorized officers this 1st day of June, 2009.

EVERGREEN NATIONAL INDEMNITY COMPANY



By: *Charles D. Hamm Jr.*

Charles D. Hamm Jr., President

By: *David A. Canzone*

David A. Canzone, CFO

Notary Public)
State of Ohio)

SS:

On this 1st day of June, 2009, before the subscriber, a Notary for the State of Ohio, duly commissioned and qualified, personally came Charles D. Hamm, Jr. and David A. Canzone of the Evergreen National Indemnity Company, to me personally known to be the individuals and officers described herein, and who executed the preceding instrument and acknowledged the execution of the same and being by me duly sworn, deposed and said that they are the officers of said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of said Corporation, and that the resolution of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at Columbus, Ohio, the day and year above written.



PENNY M BURNS
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
April 04, 2017

Penny M. Burns

Penny M. Burns, Notary Public
My Commission Expires April 4, 2017

State of Ohio)

SS:

I, the undersigned, Secretary of the Evergreen National Indemnity Company, a stock corporation of the State of Ohio, DO HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth herein above, is now in force.

Signed and sealed in Mayfield Hts, Ohio this 30th day of October 2014



Wan C. Collier

Wan C. Collier, Secretary